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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XC381

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2012 Commercial Accountability Measure and Closure for Atlantic
Wahoo

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for Atlantic wahoo (wahoo) in the exclusive economic zone (EEZ) off the Atlantic states (Maine through the east coast of Florida). Commercial landings for wahoo, as estimated by the Science and Research Director, are projected to reach the commercial annual catch limit (ACL) on December 19, 2012. Therefore, NMFS closes the commercial sector for wahoo on December 19, 2012, for the remainder of the 2012 fishing year, through December 31, 2012. This action is necessary to protect the Atlantic wahoo resource.

DATES: This rule is effective 12:01 a.m., local time, December

19, 2012, until 12:01 a.m., local time, January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery off the Atlantic states is managed under the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council, in cooperation with the Mid-Atlantic and New England Fishery Management Councils, and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Background

The commercial ACL for wahoo is 64,147 lb (29,097 kg), round weight, as specified in 50 CFR 622.49(f)(1).

The AMS for wahoo, specified at 50 CFR 622.49(f)(1), require NMFS to close the commercial sector for wahoo when the commercial ACL for wahoo has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for Atlantic wahoo has been met. Accordingly, the commercial sector for wahoo in the EEZ off the Atlantic states (Maine through the east coast of Florida) is closed effective 12:01 a.m., local time, December 19, 2012, until 12:01 a.m., local

time, January 1, 2013.

The operator of a vessel with a valid commercial vessel permit for Atlantic dolphin and wahoo having wahoo onboard must have landed and bartered, traded, or sold such wahoo prior to 12:01 a.m., local time, December 19, 2012. During this commercial closure, the bag and possession limit specified in 50 CFR 622.39(f) applies to all harvest or possession of wahoo in or from the Atlantic EEZ, and the sale or purchase of wahoo taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of wahoo that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, December 19, 2012, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of wahoo off the Atlantic states and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.49(f)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for wahoo constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule that implemented the Atlantic wahoo ACL and AMs has been subject to notice and comment (77 FR 15916, March 16, 2010), and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the wahoo resource. The capacity of the fishing fleet allows for rapid harvest of the ACL and prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: December 11, 2012

James P. Burgess,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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